

STATE OF VERMONT
PUBLIC SERVICE BOARD

Docket No. 7628

Joint Petition of Green Mountain Power Corporation,)
Vermont Electric Cooperative, Inc., and Vermont Electric)
Power Company, Inc. for a certificate of public good,)
pursuant to 30 V.S.A. Section 248, to construct up to a 63)
MW wind electric generation facility and associated)
facilities on Lowell Mountain in Lowell, Vermont, and the)
installation or upgrade of approximately 16.9 miles of)
transmission line and associated substations in Lowell,)
Westfield and Jay, Vermont)
)

Order entered: 2/1/2011

ORDER RE: GREEN MOUNTAIN POWER OBJECTION TO ADMISSIBILITY

I. Introduction

On January 26, 2011, Green Mountain Power Corporation ("GMP") filed with the Public Service Board ("Board") an Objection to the Admissibility of the Surrebuttal Testimony of Leslie David Blomberg. In this Order, we overrule GMP's objection.

II. Procedural History

On January 24, 2011, Lowell Mountains Group ("LMG") prefiled the surrebuttal testimony of its expert witness on noise, Leslie David Blomberg.

On January 26, 2011, GMP filed its objection to the admissibility of Mr. Blomberg's testimony.

On January 28, 2011, LMG, the Town of Albany, and Donald and Shirley Nelson all filed oppositions to GMP's objection.

III. Positions of the Parties

GMP contends that Mr. Blomberg's testimony is in large part inadmissible because the Board's December 27, 2010, Order, which extended the deadline for Mr. Blomberg to file his surrebuttal testimony, only applied to testimony addressing the noise impacts of two new turbine

models that the Petitioners introduced in their prefiled rebuttal testimony. Additionally, GMP contends that the portion of Mr. Blomberg's surrebuttal testimony that discusses ice throw and turbine collapse is beyond the scope of LMG's intervention.¹

LMG and Albany both assert that the Board's December 27, 2010, Order established a new deadline for Mr. Blomberg to file his surrebuttal testimony in its entirety, and that his discussion of ice throw and turbine collapse serves as a point of comparison in his analysis of property line setbacks with respect to noise. The Nelsons state that Mr. Blomberg's testimony is very important and should be heard by the Board.

IV. Discussion

We overrule GMP's objection because nothing in our December 27, 2010, Order required Mr. Blomberg to file any portion of his surrebuttal testimony prior to the January 24, 2011, deadline. Additionally, Mr. Blomberg's discussion of ice throw and turbine collapse is relevant to his discussion of property line setbacks to address noise impacts from the proposed project.

In our Order of December 27, 2010, we extended the surrebuttal filing deadline for Mr. Blomberg and Mr. James to January 24, 2011. We did not distinguish between surrebuttal addressing the two new turbine models and surrebuttal addressing everything else. The Order simply states that the "Surrebuttal Testimony of Mr. James and Mr. Blomberg" is due January 24, 2011.² It was not our intent to create multiple deadlines for these witnesses and we are not persuaded by GMP's reasoning.

With respect to that portion of Mr. Blomberg's surrebuttal testimony that discusses ice throw and turbine collapse, we believe the discussion is fairly within LMG's scope of intervention. Mr. Blomberg discusses ice throw and turbine collapse in the context of examining what an appropriate property line setback for the project would be for noise impacts. He raises the examples of ice throw and turbine collapse and concludes that setbacks established for these

1. GMP originally also asserted that Mr. Blomberg's testimony was filed a day late. After reviewing LMG's opposition to its objection, GMP withdrew this basis for its objection.

2. Order of 12/27/10 at 11.

purposes would be insufficient to address the issue of noise from the proposed project. We see nothing objectionable in his use of these two examples in assessing setbacks for noise purposes.

For the foregoing reasons, we overrule GMP's Objection to the Admissibility of the Surrebuttal Testimony of Leslie David Blomberg.

SO ORDERED.

Dated at Montpelier, Vermont, this 1st day of February, 2011.

<u>s/ James Volz</u>)	
)	PUBLIC SERVICE
)	
<u>s/ David C. Coen</u>)	BOARD
)	
)	OF VERMONT
<u>s/ John D. Burke</u>)	

OFFICE OF THE CLERK

FILED: February 1, 2011

ATTEST: s/ Judith C. Whitney
Deputy Clerk of the Board

NOTICE TO READERS: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Board (by e-mail, telephone, or in writing) of any apparent errors, in order that any necessary corrections may be made. (E-mail address: psb.clerk@state.vt.us)